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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,437	12/28/2001	Keith A. Riha	TRM TR000024 DIV	9561
32047	7590	10/17/2006		
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC 55 SOUTH COMMERICAL STREET MANCHESTER, NH 03101			EXAMINER STAICOVICI, STEFAN	
			ART UNIT	PAPER NUMBER

1732

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,437

Applicant(s)

RIHA ET AL.

Examiner

Stefan Staicovici

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendment filed August 25, 2006 has been entered. Claim 1 is pending in the instant application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Filion *et al.* (US Patent No. 5,952,630) in view of Welz *et al.* (US Patent No. 5,630,979).

Filion *et al.* ('630) teach the basic claimed process including, providing a flexible (deformable) thermoplastic PVC (polymer) outer skin (26b') (see col. 3, line 63) formed by vacuum forming (thermoforming) (col. 5, lines 56-57), a foam layer (26b'') bonded to said skin, a substrate layer (22b) bonded to said foam layer (26b'') and at least one switch (30b) embedded in said foam layer (26b'') that is force activated (see Figure 5 and, col. 3, lines 60-64; col. 5, lines 31-34 and lines 54-61; col.6, lines 20-21). Further, Filion *et al.* ('630) specifically teach that *any* (emphasis added) suitable foam material may be used as taught in U.S. Patent No. 5,232,957, which is incorporated by reference (col. 6, lines 1-7), and as such, under MPEP §2163.07, Filion *et al.* ('630) teach a polyurethane foam. Further, Filion *et al.* ('630) specifically teach other "any

number of known materials...described in U.S. Patent Nos. 5,448,028...", which is incorporated by reference (col. 6, lines 1-7), and as such, under MPEP §2163.07, Filion *et al.* ('630) teach a thermoplastic olefin or urethane for making the flexible, outer skin (26b') (see col. 3, lines 1-19 of U.S. Patent Nos. 5,448,028). Furthermore, Filion *et al.* ('630) teach marking of said outer skin layer (see Figure 1).

Regarding claim 1, although Filion *et al.* ('630) teach a flexible (deformable) thermoplastic PVC (polymer) outer skin (26b'), Filion *et al.* ('630) does not teach that said skin is colored. However, making a colored flexible (deformable) thermoplastic skin is well known. Therefore, it would have been obvious for one of ordinary skill in the art to provide a colored thermoplastic skin layer in the process of Filion *et al.* ('630) because of known advantages that color provides such as improved aesthetics, hence providing for an improved product.

Further regarding claim 1, although Filion *et al.* ('630) teaches marking of said outer skin layer (see Figure 1), Filion *et al.* ('630) do not teach a process of marking said outer skin layer using a laser. However, laser marking a thermoplastic material is well known as evidenced by Welz *et al.* ('979) who teach in general using a laser beam to form a mark on a plastic substrate that includes a commercially available pigment which under the influence of the laser light is bleached (causes color to bleach...relative to a portion...not contacted by said laser) (see col. 2, lines 13-18). Therefore, it would have been obvious for one of ordinary skill in the art to have used a laser beam as taught by Welz *et al.* ('979) to mark the thermoplastic material in the process of Filion *et al.* ('630) because, Welz *et al.* ('979) teach that laser marking is well known

for quickly and cleanly inscribe colored (pigment) thermoplastic materials such as is the thermoplastic material of Fillion *et al.* ('630), hence providing for an improved process.

Response to Arguments

4. Applicants' remarks filed August 25, 2006 have been considered.

5. In response to applicant's arguments against the teachings of Fillion *et al.* ('630) and Welz *et al.* ('979) individually (see pages 3-4 of the amendment filed 8/25/2006), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. Applicants argue that contrary to the claimed invention, the teachings of Welz *et al.* ('979) are drawn to "bar coding of white, or yellow, injection moldings," which is a "very limited set of colors not normally used in automobile trim panels...black, blue, green, gray" (see page 4 of the amendment filed 8/25/2006). In response to applicants' argument, it is noted that the skin layer being laser marked in the instant invention is broadly claimed as a "skin layer having a color" (see claim 1, line 6) and not to a specific color, as applicants are arguing. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. Applicants argue that contrary to Welz *et al.* ('979), which requires an additive to provide laser absorption, such an additive does not fall within the scope of the instant claimed invention

(see page 5 of the amendment filed 8/25/2005). However, applicants' position is misplaced because the laser additive to which applicants are referring is the pigment required to color the surface to be marked. As shown throughout prosecution of the instant application, Welz *et al.* ('979) specifically teach, in column 2, lines 13-17, that,

"Plastics which contain commercially available colored pigments can in some case be inscribed using the frequency doubled Nd:YAG laser...The pigments are bleached, resulting in a color change." (Emphasis added).

Hence, it is submitted that Welz *et al.* ('979) does not necessarily teach distinct laser additives for marking a plastic, as Applicants' argue, because the pigments themselves are in effect the "additive" required for laser marking.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



10/13/06

Primary Examiner

AU 1732

October 13, 2006